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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,007	08/21/2006	Oliver Denzler	SMB-PT180 (PC 05 063 B US	7070
3624 7590 02/04/2010 VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			EXAMINER REIS, RYAN ALEXANDER	
			ART UNIT 3752	PAPER NUMBER
			MAIL DATE 02/04/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,007	<b>Applicant(s)</b> DENZLER, OLIVER	
	<b>Examiner</b> RYAN REIS	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-7, 9 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9 and 11-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. In the amendment filed on 11/03/2009, applicant has cancelled claim 8. Therefore, claims 1-3, 5-7, 9 and 11-14 are now pending in the application and are addressed below.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5, 6, 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,014,667 to McLean et al. (McLean et al.).

As to claim 1, McLean et al. discloses a plumbing spout device comprising a mounting sleeve (20) having an external thread (21), which is connected to a water spout, having an internal thread (on interior of 22), of a plumbing water spout fitment (11) via a screw connection, and a flow rectifying device (15), with an attachment screen (14) being connected upstream of the flow rectifying device in a direction of flow, and a housing neck (bottom portion of 20; see Figure 3) connected downstream of the flow rectifying device on the outlet end of the spout device is provided for forming a jet, the flow rectifying device being provided as a perforated plate and having a perforated area at least in a partial region thereof, an outflow-side of the flow rectifying device is

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arranged at an outlet of the mounting sleeve, and the spout device has a contoured outer end face tool attachment surface (23) projecting beyond the thread in the outlet direction for a tool insert (see column 2, lines 45-51). McLean et al. does not expressly disclose the flow rectifying device being integral with the mounting sleeve.

However, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have made the flow rectifying device of McLean integral with the mounting sleeve, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

As to claim 3, McLean et al. discloses the attachment screen is connected directly upstream of the flow rectifying device without an intermediate connection of other installation parts or functional units (see Figure 3).

As to claim 5, McLean et al. discloses a throughput regulator or a throughput limiter (at 12) is connected upstream of the attachment screen in the direction of flow.

As to claim 6, McLean et al. discloses the attachment screen directly contacts a supply side of the flow rectifying device at least with an outer edge region thereof (see Figure 3).

As to claim 9, McLean et al. discloses the flow rectifying device is connected to the mounting sleeve via a weld, adhesive, clip, or screw connection (flow rectifying device is connected to the mounting sleeve via the screw connection of the mounting sleeve to the water spout).

As to claim 14, McLean et al. discloses the spout device is embodied as a jet regulator, jet disrupter, or flow straightener (see column 1, lines 8-34).

4. Claims 2, 7 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,014,667 to McLean et al. in view of US Patent 6,126,093 to Grether et al. (Grether et al. '093).

As to claim 2, McLean et al. discloses the claimed invention above but does not disclose an insert part between the attachment screen and the flow rectifying device

However, Grether et al. '093 discloses a screen-like or grating-like insert part or functional element (19) is connected between the attachment screen and the flow rectifying device for the purpose of further regulating the fluid flow.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have made the device of McLean et al. with an insert part between the attachment screen and the flow rectifying device as taught by Grether et al. '093 in order to further regulate the fluid flow.

As to claim 7, McLean et al. discloses the claimed invention above but does not disclose the attachment screen having a conical shape.

However, Grether et al. '093 discloses the attachment screen has a conical shape (see Figure 6) in order to prevent particles from obstructing the screen.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have made the attachment screen of McLean et al. conical in shape as taught by Grether et al. '093 in order to prevent particles from obstructing the screen.

As to claim 11, McLean et al. discloses the claimed invention above but does not expressly disclose the recesses of the spout device held in a spout fitment are used as tool attachment surfaces for the projections of another spout device that can be used as a tool insert.

However, Grether et al. '093 shows the outflow end side of a spout device has contouring formed from end-edge projections and recesses (see Figure 1a), such that the recesses of the spout device held in a spout fitment are used as tool attachment surfaces for the projections of another spout device that can be used as a tool insert (recesses in outer contour can be used to attach a tool insert) for the purpose of having the spout device also function as a tool.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have made the device of McLean et al. with

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projections and recesses as taught by Grether et al. '093 in order to have the spout device also function a tool for assembling and disassembling other spout devices.

As to claim 12, McLean et al. discloses the claimed invention above but does not expressly disclose the flow rectifying device having a honeycomb-like structure.

However, Grether et al. '093 discloses a perforated area of a flow rectifying device formed as the perforated plate (2) has a honeycomb-like structure (see column 7, lines 1-4) for the purpose of controlling fluid flow therethrough.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have made the perforated plate of McLean et al. with a honeycomb-like structure as taught by Grether et al. '093 in order to control the fluid flow characteristics through the spout device.

As to claim 13, McLean et al. discloses the claimed invention above but does not expressly disclose the flow rectifying device being divided by approximately radial longitudinal walls and approximately concentric peripheral walls into approximately circular segment-like throughput holes.

However, Grether et al. '093 discloses the perforated area of the jet-regulating device is divided by approximately radial longitudinal walls and approximately concentric peripheral walls into approximately circular segment-like throughput holes (see Figure 7) for the purpose of controlling fluid flow therethrough.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have made the perforated plate of McLean et al. divided by approximately radial longitudinal walls and approximately concentric peripheral walls into approximately circular segment-like throughput holes as taught by Grether et al. '093 in order to control the fluid flow characteristics through the spout device.

### ***Response to Arguments***

5. Applicant's arguments filed 11/03/2009 have been fully considered but they are not persuasive.

Applicant argues that the McLean reference teaches the housing made of brass and the sieves made of stainless steel, thus rendering it non-obvious to make the equipment as a single piece. The examiner respectfully disagrees. McLean does not disclose the housing and sieves made of different materials as alleged by applicant. Examiner maintains the previous rejection based on obviousness to make separate parts integral.

Applicant argues that the McLean reference does not show a housing neck downstream of the flow rectifying device. The examiner respectfully disagrees. Figure 3 shows that housing 20 has an inward flange or neck downstream of the flow rectifying device 15 in the region of the outlet.



***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN REIS whose telephone number is (571)270-5060. The examiner can normally be reached on Monday through Friday 8:00am to 6:00pm EST.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RR/

Examiner, Art Unit 3752

/Dinh Q Nguyen/

Primary Examiner, Art Unit 3752